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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1230

DISTRICT OF COLUMBIA, *Petitioner*,

v.

EQUITABLE LIFE INSURANCE COMPANY, *Respondent*.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF FOR RESPONDENT IN OPPOSITION

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OPINIONS BELOW

The opinions of the Courts below are set forth in the Petition.

JURISDICTION

The jurisdictional requisites are set forth in the Petition.

QUESTIONS PRESENTED

The Respondent does not desire to restate the questions presented in the Petition for Writ of Certiorari. Respondent does not consider the statement of Questions Presented set forth in the Petition sufficient to justify the granting of the Writ of Certiorari.

STATUTES INVOLVED

The pertinent statutes are set forth in the Petition.

REASONS FOR DENYING WRIT

I

The Case Is a Matter of Local Law.

The decision of the United States Court of Appeals for the District of Columbia Circuit and the decision of the District of Columbia Tax Court is concerned solely with the construction of a local taxing statute.

The case at bar is limited to the District of Columbia and has no impact beyond the boundaries of the District of Columbia. The tax which the District of Columbia attempted to impose on Respondent was a tax on personal property situated in the District of Columbia.

II

The Case at Bar Creates No Conflict.

The decision of the Court of Appeals is not in conflict with the decisions of this Court and cannot be described as overruling the decisions of this Court. The decision in *Ford* v. *Delta and Pine Land Co.*, 164 U.S. 662, concerned the question as to whether or not an exemption from taxation contained in a corporation's charter releases the property so exempted from lia-

bility for assessments for local improvements. In *Ford* v. *Delta and Pine Land Co., supra,* the Court said:

> But, further and chiefly, the only exemption was from taxation, and it is a general rule of construction that a clause exempting from taxation does not release the property so exempted from liability for assessments for local improvements. *Sheehan Jr.* v. *The Good Samaritan Hospital,* 50 Missouri, 155; *Buffalo City Cemetery* v. *Buffalo,* 46 N. Y. 506; *Paterson* v. *Society for establishing Useful Manufactures,* 24 N. J. Law, 385; *State* v. *Newark,* 35 N. J. Law, 157. This question was considered in this court in *Illinois Central Railroad* v. *Decatur,* 147 U.S. 190. The exemption in that case was "from all taxes under the laws of this State," (Illinois) and it was held that that clause did not relieve the property from the burden of special assessments imposed to pay the cost of local improvements. The question was discussed at some length and the various authorities reviewed in the opinion then delivered. 164 U.S., at 670

The tax sought to be imposed by the District of Columbia is an *ad valorem* tax and not an assessment for a local improvement. It is inconceivable that *Ford* v. *Delta and Pine Land Co., supra,* can be said to control this case.

CONCLUSION

The case at bar concerns a purely local matter. The decision of the United States Court of Appeals is not in conflict with the decisions of this Court. For the foregoing reasons, the Petition for Writ of Certiorari should be denied.

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